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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/244,163	02/04/1999	HIDENORI SHIOTSUKA	35.C13307	3414

5514 7590 04/04/2003

FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER
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WILLIAMS, ALEXANDER O

ART UNIT	PAPER NUMBER
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2826

DATE MAILED: 04/04/2003

24

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/244,163

Applicant(s)

SHIOTSUKA ET AL.

Examiner

Alexander O Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39-11, 17, 20, 21, 23-27, 33-35, 41, 44, 45, 47, 48, 51, 58, 63, 73-80 is/are pending in the application.
- 4a) Of the above claim(s) 9-11, 17, 20, 21, 23, 24, 33-35, 41, 44, 45, 47, 48, 59, 63 and 77-80 is/are withdrawn from consideration.

- 5) ☒ Claim(s) 1-3, 25-27, 51 and 73-76 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

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Serial Number: 09/244163 Attorney's Docket #: 35.C13307

Filing Date: 2/4/99;

Applicant: Shiotsuka et al.

Examiner: Alexander Williams

Applicant's Notice of Appeal in Paper # 22, filed 3/4/03 has been acknowledged.

Applicant's Response in Paper # 23, filed 3/4/03 has been acknowledged.

This application contains claims 9-24, 33-48 and 57-64 drawn to an invention non-elected without traverse in Paper No. 6. A complete response to the final rejection must include cancellation of non-elected claims or other appropriate action (see 37 CFR § 1.144 & MPEP § 821.01).

Now, claims 4-8, 12-16, 18, 19, 22, 28-32, 36-40, 42, 43, 46, 49, 50, 52-54, 56-62 and 64-72 have been canceled.

Newly submitted claims 77 to 80 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

A method or process according to previous claim(s).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 77 to 80 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

This application is in condition for allowance except for the following formal matters:

This application is in condition for allowance except for the presence of claims 9-11, 17, 20, 21, 23, 24, 33-35, 41, 44, 45, 47, 48, 59, 63 and 77-80 to an invention non-elected with traverse in Paper No. 6. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

Claims 1-3, 25-27, 51 and 73-76 are directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claims 9-11, 17, 20, 21, 23, 24, 33-35, 41, 44, 45, 47, 48, 59, 63 and 77-80, directed to the process of making or using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, are now subject to being rejoined. No process claims have been hereby rejoined and fully examined for patentability under 37 CFR 1.104. In accordance with the Official Gazette notice, *supra*, process claims 9-11, 17, 20, 21, 23, 24, 33-35, 41, 44, 45, 47, 48, 59, 63 and 77-80, which are not depend from or otherwise include all the limitations of the allowable product, have NOT been rejoined.

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Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for response to this action is set to expire **ONE MONTH** from the date of this letter.

Field of Search	Date
U.S. Class and subclass: 257/433,466,459,632,787,788,790 136/249,257,251,285,256,244,259,291 438/64,66	12/2/01 8/15/02 4/2/03
Other Documentation: foreign patents and literature in 257/433,466,459,632,787,788,790 136/249,257,251,285,256,244,259,291 438/64,66	12/2/01 8/15/02 4/2/03
Electronic data base(s): U.S. Patents EAST	12/2/01 8/15/02 4/2/03

***Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. Papers should be faxed to Technology Center 2800 via the Technology Center 2800 Fax center located in Crystal Plaza 4-5B15. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Technology Center 2800 Fax Center number is (703) 308-7722 or 24. Only Papers related to Technology Center 2800 APPLICATIONS SHOULD BE FAXED to the GROUP 2800 FAX CENTER.***

Any inquiry concerning this communication or any earlier communication from the examiner should be directed to ***Examiner Alexander Williams*** whose telephone number is **(703) 308-4863**.

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Any inquiry of a general nature or relating to the status of this application should be directed to the **Technology Center 2800 receptionist** whose telephone number is **(703) 308-0956**.

4/3/03

A handwritten signature in black ink, appearing to read 'Alexander O. Williams', written in a cursive style.

Primary Examiner  
Alexander O. Williams